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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,016	08/22/2003	Louis A. Rhodes	706441US2	8986

24938 7590 11/22/2004

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EXAMINER


GUTMAN, HILARY L

ART UNIT	PAPER NUMBER
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3612

DATE MAILED: 11/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<p>Application No.</p> <p align="center">10/646,016</p>	<p>Applicant(s)</p> <p align="center">RHODES ET AL.</p>	
	<p>Examiner</p> <p align="center">Hilary Gutman</p>	<p>Art Unit</p> <p align="center">3612</p>	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 October 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-9, 11, 12 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 2, 5-9 and 15-17 is/are allowed.
- 6) ☒ Claim(s) 3, 4, 11, 12 and 18-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/25/04</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the track being disposed partially in the floor of claim 11 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled “Replacement Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

*Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 3-4, 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Uno et al.

For claim 3, Uno et al. (5,868,451) disclose a seat assembly for a motor vehicle 12 having a tub 108 disposed at least partially in a floor 14 of the vehicle, the seat assembly comprising: a seat cushion 24 translatable on at least one track 34 to a position (Figure 2, solid lines) generally (vertically, but not directly) above the tub, the seat cushion 24 being stowable in the tub (Fig. 3, solid lines) wherein the seat cushion has an underside 24a, and the underside 24a presents a load floor when the seat cushion is stowed in the tub.

With regard to claim 4, the load floor is generally even with the floor of the vehicle.

With regard to claim 18, the seat cushion is rotatable about an axis (extending through pivot hinges 38) generally perpendicular to the at least one track 34.

With regard to claim 19, at least one leg 68 extends between the seat cushion and the at least one track.

4. Claims 3-4, 11-12, and 18-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Pone et al.

For claim 3, Pone et al. (5,890,758) disclose a seat assembly for a motor vehicle 12 having a tub 24 disposed at least partially in a floor of the vehicle, the seat assembly comprising:

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a seat cushion 16 translatable on at least one track 36 to a position (Figure 4E) generally above the tub, the seat cushion 16 being stowable in the tub (Figure 4F) wherein the seat cushion has an underside, and the underside presents a load floor when the seat cushion is stowed in the tub.

With regard to claim 4, the load floor is generally even with the floor of the vehicle.

With regard to claim 18, the seat cushion is rotatable about an axis generally perpendicular to the at least one track 36.

With regard to claim 19, at least one leg 46A, 46B extends between the seat cushion and the at least one track.

With regard to claim 20, the at least one leg is pivotably connected to the seat cushion.

For claim 11, Pone et al. disclose a seat assembly for a motor vehicle 12 having a floor, the seat assembly comprising: at least one track 36 disposed at least partially in the floor; and a seat cushion 16 translatable on the at least one track to a position (Figure 4E) generally above the tub, the seat cushion 16 being stowable in the tub (Figure 4F) wherein the seat cushion has an underside, and the underside presents a load floor when the seat cushion is stowed in the tub.

With regard to claim 12, the load floor is generally even with the floor of the vehicle.

#### *Allowable Subject Matter*

5. The indicated allowability of claims 3-4, 11-12, and 18-20 is withdrawn in view of the newly discovered reference(s) to Uno et al. and Pone et al. Rejections based on the newly cited reference(s) are set forth above.

6. Claims 2, 5-9, and 15-17 are allowed.

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7. The following is an examiner's statement of reasons for allowance: the primary reason for the allowance of the claims in this case is the inclusion of the specific laterally disposed track of claims 2, 5, and 15, in combination with the other elements recited, which is not found in the prior art of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### *Response to Arguments*

8. Applicant's arguments with respect to claims 2-9, 11-12, 15-20 have been considered but are moot in view of the new ground(s) of rejection.

#### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hilary Gutman whose telephone number is 703-305-0496.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on 703-308-3102. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

**11. Any response to this action should be mailed to:**

Assistant Commissioner for Patents

Washington, D.C. 20231

**or faxed to:**

(703) 872-9326, (for formal communications intended for entry)

**or:**

(703) 746-3515, (for informal or draft communications, please clearly label

“PROPOSED” or “DRAFT”).



Hilary Gutman  
November 17, 2004